

REMARKS/ARGUMENTS

Claims 1-20 are pending in the present application. In the Office Action mailed March 8, 2006, the Office Action rejected claims 1-2, 4-6, 8-10, 12-15 and 17-20 under 35 U.S.C. § 102. The Office Action also rejected claims 3, 7, 11 and 16 under 35 U.S.C. § 103. Claims 1, 9, and 15 have been amended.

Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

A. Claims 1-2, 4-6, 8-10, 12-15 and 17-20 Rejected Under 35 U.S.C. § 102(b)

The Office Action rejected claims 1-2, 4-6, 8-10, 12-15 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,987,105 to Jenkins et al. (hereinafter, "Jenkins"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Jenkins. Jenkins does not disclose all of the limitations in these claims.

Claims 1 and 9 have been amended to recite "a user identification for identifying the user of the embedded device." Claim 15 has been amended to recite "a user identification ... that identifies the user of the embedded device." Claims 1, 9, and 15 have been amended generally to reflect these amendments. Support for these amendments may be found throughout Applicants' Specification, such as on page 8, lines 14-16. Applicants respectfully submit that Jenkins does not disclose these

limitations. Specifically, Jenkins does not disclose “a user identification [that] identif[ies] the user of the embedded device,” as recited in claims 1, 9, and 15.

The Office Action asserts that “Jenkins clearly provides ‘including the identification with the status data.’” Office Action, page 5. Specifically, the Office Action asserts that “the audible data signal produced by speaker 5 includes the information stored in memory device 4, the information including the machine's serial number (identification) with statuses (status data).” Id. (internal citations omitted) (emphasis in original). In support of this assertion, the Office Action cites the following portion of Jenkins:

During execution of the software controlling operation of washing machine 1, various inputs, statuses (such as drain pump on, hot water valve open), serial number, number of cycles completed, alerts, errors, faults (such as drain pump blocked, cold water tap not turned on or motor error) and other problems are detected and recorded in memory device 4.

Jenkins, col. 3, lines 35-41.

Apparently, the Office Action is asserting that a serial number is the same as an identification. However, Applicants respectfully submit that a serial number is not the same as a user identification, as recited in claims 1, 9, and 15. Although the serial number may identify the specific washing machine, Jenkins does not disclose that the serial number “identif[ies] the user of the embedded device,” as recited in claims 1, 9, and 15. Specifically, identifying a device is not the same as “identif[y]ing the user of the embedded device,” as recited in claims 1, 9, and 15. Therefore, the serial number disclosed by Jenkins does not disclose “identif[y]ing the user of the embedded device,” as recited in claims 1, 9, and 15.

Accordingly, the Office Action has not cited, nor can Applicants find, any section of Jenkins that discloses “a user identification [that] identif[ies] the user of the embedded device,” as recited in claims 1, 9, and 15. Therefore, Applicants submit that Jenkins does not disclose each and every element as set forth in these claims.

In view of the foregoing, Applicants respectfully submit that claims 1, 9, and 15 are patentably distinct from Jenkins. Accordingly, Applicants respectfully request that the rejection of claims 1, 9, and 15 be withdrawn.

Claim 19 recites that “the communication network is a cellular telephone network.” Claim 20 recites that “the communication network is a radio network.” Applicants respectfully submit that Jenkins does not disclose either of these limitations.

The Office Action asserts that “[r]egarding claims 19-20, a cellular telephone can be used at the appliance site in the same manner as handset 9 to transmit the audible data signal generated by loudspeaker 5.” Office Action, page 5. The Office Action did not cite to any portion of Jenkins in support of this assertion.

Applicants respectfully submit that Jenkins does not disclose “a cellular telephone network,” as recited in claim 19, or “a radio network,” as recited in claim 20. In fact, Jenkins does not disclose anything about a cellular telephone, as asserted. Rather, Jenkins only discloses a Public Switched Telephone Network. See Jenkins, Figure 1, col. 4, lines 23-25, and col. 10, lines 23-27. Applicants respectfully submit that a Public Switched Telephone Network is not the same as “a cellular telephone network,” as recited in claim 19, or “a radio network,” as recited in claim 20.

The assertion that a cellular telephone may be used in the same manner as handset 9 is not disclosed by Jenkins. Therefore, Jenkins does not disclose either “a cellular telephone network,” as recited in claim 19, or “a radio network,” as recited in claim 20. Consequently, because Jenkins does not disclose either “a cellular telephone network,” as recited in claim 19, or “a radio network,” as recited in claim 20, Jenkins does not anticipate claims 19 and 20.

Claims 1-2, 4-6, and 8 depend directly from claim 1. Claims 10 and 12-14 depend directly from claim 9. Claims 17-20 depend directly from claim 15. Accordingly, Applicants respectfully request that the rejection of claims 1-2, 4-6, 8, 10, 12-14, and 17-20 be withdrawn for at least the same reasons as those presented above in connection with claims 1, 9, and 15.

B. Rejection of Claims 3 and 11 Under 35 U.S.C. § 103(a)

The Office Action rejected claims 3 and 11 under 35 U.S.C. § 103(a) based on Jenkins in view of U.S. Patent No. 5,311,581 to Merriam et al. (hereinafter, "Merriam"). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As shown above, Jenkins does not disclose each and every element of claims 1 and 9. Specifically, Jenkins does not disclose "a user identification for identifying the user of the embedded device," as recited in claims 1 and 9. Likewise, the Office Action has not cited, nor can Applicants find, any portion of Jenkins that teaches or suggests this limitation.

Merriam does not make up for the deficiencies of Jenkins. Specifically, the Office Action has not cited, nor can Applicants find, any portion of Merriam that that discloses, teaches, or suggests "a user identification for identifying the user of the embedded device," as recited in claims 1

and 9. Accordingly, Applicants respectfully submit that claims 1 and 9 are patentably distinct from the cited references.

Claims 3 and 11 depend directly from claims 1 and 9 respectively. Consequently, Applicants respectfully request that the rejection of claims 3 and 11 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 9.

C. Rejection of Claims 7 and 16 Under 35 U.S.C. § 103(a)

The Office Action rejected claims 7 and 16 under 35 U.S.C. § 103(a) based on Jenkins in view of U.S. Patent No. 5,729,596 to Reeder et al. (hereinafter, "Reeder"). This rejection is respectfully traversed.

The standard for establishing a prima facie case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As shown above, Jenkins does not disclose, teach, or suggest all the limitations of claims 1 and 9. Specifically, Jenkins does not disclose, teach, or suggest "a user identification for identifying the user of the embedded device," as recited in claims 1 and 9.

Reeder does not make up for the deficiencies of Jenkins. Specifically, the Office Action has not cited, nor can Applicants find, any portion of Reeder that discloses, teaches, or suggests "a user identification for identifying the user of the embedded device," as recited in claims 1 and 9. Accordingly, Applicants respectfully submit that claims 1 and 9 are patentably distinct from the cited references.

Claims 7 and 16 recite that "the embedded device is a television." Applicants respectfully submit that the cited references do not disclose, teach, or suggest this limitation.

The Office Action correctly admits that "Jenkins differs from claims 7 and 16 in that it does not specify the home appliance as being a television." Office Action, page 4. In fact, Jenkins states that the invention "is to be described with reference to a clothes washing machine, however other

appliances such as, for example, refrigerators, freezers, clothes driers, dishwashers, stoves, microwave ovens could just as validly be used.” Jenkins limits the scope of the invention to appliances. Additionally, though Jenkins discloses an almost exhaustive list of appliances, Jenkins does not disclose, teach, or suggest applying the invention to a television.

The Office Action asserts that “Reeder teaches that it is well known to communicate data from a television as well as a washing machine or microwave oven (identify code from TV 1b as well from WM 1d or μ W 1e) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of a home appliance such as a television, as taught by Reeder, within system of Jenkins.” Office Action, pages 4-5. The Office Action did not cite to any portion of Reeder in support of this assertion.

Applicants respectfully submit that regardless of the accuracy of these assertions, the Office Action has not presented a *prima facie* case of obviousness against claims 7 and 16. Specifically, the Office Action has failed to provide a motivation to combine Jenkins and Reeder.

The Federal Circuit has stated that “[o]ur case law makes clear that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references.” Ecolochem, Inc., v. Southern California Edison Company, 227 F.3d 1361, 1371 (Fed. Cir. 2000). In order to prevent a hindsight-based obviousness analysis, the Federal Circuit has held that “when determining the patentability of a claimed invention which combines two known elements, ‘the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.’” Id. (quoting In re Beattie, 974 F.2d 1309, 1311-12 (Fed. Cir. 1992)).

Applicants submit that the Office Action has not provided any tangible teaching from any reference materials regarding the desirability of the combination of Jenkins and Reeder. In fact, the Office Action does not provide any motivation to combine these references. Rather, the Office Action merely asserts that “it would have been obvious to an artisan of ordinary skill to incorporate the use of a home appliance such as a television, as taught by Reeder, within system of Jenkins.” Office Action, pages 4-5. Whether this combination would have been obvious or not does not

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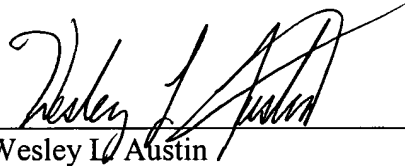
provide any motivation to make this combination. Therefore, the Office Action has not presented a *prima facie* case of obviousness against claims 7 and 16.

Additionally, claims 7 and 16 depend directly indirectly from claims 1 and 9 respectively. Consequently, Applicants respectfully request that the rejection of claims 7 and 16 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 9.

D. Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley L. Austin", is written over a horizontal line.

Wesley L. Austin
Reg. No. 42,273
Attorney for Applicant

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MADSON & AUSTIN
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101
Telephone: (801) 537-1700